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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,650	11/25/2003	Stephen Doncov	5362-451/COC	5634

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EXAMINER

PEDDER, DENNIS H

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,650

Applicant(s)

DONCOV ET AL.

Examiner

Dennis H. Pedder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is vague in that the seal extends only along the rear edge of the deck lid as best understood.

Claim 7 lacks clear antecedent for the "first roof panel", confusing as a result.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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5. Claims 1, 3, 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder et al. in view of Webasto 870, DE 3545870.

Corder et al. has the header 35, side rails 31, storage compartment 209, deck lid 29, first roof panel 23, back window 27, and seal 63 extending along the header and side rails.

Corder et al. does not disclose a seal at the rearward edge of the deck lid, but shows a gutter 233 at that location.

It would have been obvious to one of ordinary skill to provide in Corder et al. a circumferential seal to a roof aperture as taught by Webasto 870 at 24. The purpose is self-evident: to prevent moisture and dust intrusion into the vehicle.

As to claim 3, see figures 7, 8, 9, 11 of Webasto 870, showing all four sides.

As to claim 7, see double bulb seal 24 with bulbs at 32 and 36.

As to claim 8, see drain trough 35, listed as “Rinne 35” in the German document, meaning “gutter, drain, channel”(Cassell’s German-English, English-German Dictionary 1978).

6. Claims 2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder et al. in view of Webasto 870 as applied to claim 1 above, and further in view of Farber.

Corder et al. has second roof panel 25. It would have been obvious to one of ordinary skill to provide in the references above a seal 24 between roof panels as taught by Farber for the same reasons as listed above.

As to claim 4, see the double bulb cross section formed by the divider 66 in Farber and drain trough 70.

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7. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corder et al. in view of Webasto 870 as applied to claim 1 above, and further in view of Ono et al..

It would have been obvious to one of ordinary skill to provide in the references above a corner piece drain pocket 50/51 as taught by Ono et al. in order to dispose of moisture.

8. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farber in view of Webasto 391, DE 19720391.

Farber has the first and second roof panels 14a,b and a seal 24 therebetween with a single drain trough 70. It would have been obvious to one of ordinary skill to provide in Farber a second upwardly extending lip 13 to form a second drain trough, one at each side of a bulb seal as taught by Webasto 391. The first trough is positioned exactly as shown in Farber at the left side of the figure at numeral 11. The purpose is also self-evident: to better trap moisture from entering the interior.

Conclusion

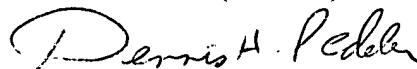
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. MGA is cited to show another vehicle with moveable roof and rear window.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dennis H. Pedder
Primary Examiner
Art Unit 3612

3/18/04

DHP